

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GINA BROOKS, et al.,

Appellants,

v.

SEATTLE SCHOOL DISTRICT NO. 1,

Respondent.

CASE NO. C06-1221RSM

ORDER ON MOTION TO DISMISS
AND ORDER OF REMAND

This matter is now before the Court for consideration of a motion to dismiss for lack of jurisdiction, filed by respondent Seattle School District No. 1. Dkt # 15. The appellants have opposed the motion, and in so doing have clarified that no federal question is presented in their appeal. This Court must accordingly remand the case back to state court pursuant to 28 U.S.C. § 1447(c).

DISCUSSION

This action represents an appeal of a decision of the Seattle School District (“the District”), pursuant to R.C.W. 28A.645.010. Appellants seek to challenge the July 26, 2006 decision, by vote of the school board, to close certain elementary schools within the district. The appeal was filed in King County Superior Court, and removed to this Court by respondent pursuant to 28 U.S.C. § 1331 and § 1441(b), on the basis of references in the Notice of Appeal to violations of appellants’ due process and

1 equal protection rights under the Fourteenth Amendment, as well as violation of the Individuals with
2 Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* Appellants have not moved for remand. However,
3 in opposing respondent's motion to dismiss for lack of jurisdiction, appellants have clearly stated that no
4 independent civil rights claim is presented in this appeal, as they are not using the state appeal statute to
5 "process civil rights claims." Opposition to Motion to Dismiss, p. 5. In the absence of a federal claim,
6 this Court lacks jurisdiction to decide either respondent's motion to dismiss, or appellants' motion for a
7 preliminary injunction, and must remand the action to the state court. 28 U.S.C. § 1447(c).

8 Accordingly, it is hereby ORDERED that this case is REMANDED to King County Superior
9 Court, Cause No. 06-2-26625-1 SEA. The parties shall note their pending motions for consideration by
10 that court. The oral argument set for October 20, 2006 in this Court is STRICKEN.

11 The Clerk shall close this file and send a certified copy of this Order to the Clerk of Court for the
12 King County Superior Court.

13
14 Dated this 13th day of October, 2006.

15
16 

17 RICARDO S. MARTINEZ
18 UNITED STATES DISTRICT JUDGE
19
20
21
22
23
24
25
26
27